

REMARKS

A second Supplemental IDS is also with this response. It contains several references cited in the European Search Report of a related case. The search report was mailed by the office to the undersigned on August 26, 2004 and an IDS filed concurrently with this amendment is therefore timely.

I. Claim Status

Prior to this amendment, Claims 1-38 are pending. Claims 3 and 4 have been cancelled without prejudice. Claims 1, 2, 6-32, 34 and 38 have been amended. Claim 1 has been amended to incorporate the definitions for M and D found in original claims 2 and 4. Claim 2 has been amended to incorporate the general Formula I from original claim 1 and the definitions for L and D from original claims 3 and 4. Claim 2 has further been amended to include pharmaceutically acceptable salts and solvates. Support for this amendment comes from the specification as filed at page 1 lines 17-18, page 5 lines 8-11 and page 9 lines 8-9. Claims 6 and 7 have been amended to correct dependency because claims 3 and 4 from which claims 6 and 7 depended previously have been canceled. Claims 8-30 have been amended to add the phrase "and pharmaceutically acceptable salts or solvates thereof." Support for this amendment can be found in the specification as filed at page 1 lines 17-18, page 5 lines 8-11 and page 9 lines 8-9. Claim 31 has been amended to recite the definitions for M and D found in original claims 2 and 4. Minor amendments have been made to claims 32, 34 and 38 all of which are now dependent on claim 1. No new matter has been added by these amendments.

I. Claim Rejections**a. 35 U.S.C. §112 First Paragraph**

Claims 1-7 and 31-38 stand rejected under 35 USC §112 first paragraph. The Examiner contends that while being enabled for a compound where M is a macrolide of Formula II, L is a group of Formula IV and D is derived from NSAIDS the specification does not reasonably provide enablement for M being a macrolide, D being a nonsteroidal subunit and L being any linker.

are not patentably distinct from each other because the compounds of the instant application are encompassed by the compounds of the copending application. Without conceding the Examiner's position, concurrent with the filing of this amendment, applicants also file a terminal disclaimer in compliance with 37 CFR 1.32(c).

c. 35 U.S.C. §102(a) Rejection

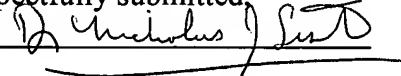
Claim 1 stands rejected under 35 U.S.C. §102(a) as being anticipated by Griffin (U.S. Patent 6,566,509). Claim 1 has been amended to incorporate the limitations found in original claims 2 and 4. Amended claim 1 therefore cannot be anticipated by Griffin. Applicants respectfully request removal of this rejection.

Conclusion

It is believed that the application is now in condition for allowance. Favorable action is earnestly solicited. If the Examiner believes a telephonic interview would expedite the prosecution of the instant case, she is invited to call the applicants' representative whose contact information appears below.

Dated: November 10, 2004

Respectfully submitted,

By 

Nicholas Sisti

Registration No.: 54,453

DARBY & DARBY P.C.

P.O. Box 5257

New York, New York 10150-5257

(212) 527-7700

(212) 753-6237 (Fax)

Attorneys/Agents For Applicant